



Legislative Bulletin.....July 23, 2002

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H.J.Res. 101—Disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam (Rohrabacher)

Order of Business: The resolution is expected to come to the House floor under a privileged (i.e. non-debatable) motion on Tuesday, July 23rd. Amendments to the motion are not in order, except to change country names. The underlying resolution was reported adversely (by voice vote) by the House Ways and Means Committee on July 18, 2002.

Summary: H.J.Res. 101 states that Congress disapproves the one-year extension of nondiscriminatory treatment (normal trade relations--NTR) with respect to the products of the Socialist Republic of Vietnam, as transmitted by the President to the Congress on June 3, 2002.

Additional Background: A bilateral agreement providing for reciprocal nondiscriminatory trade treatment between the United States and Vietnam was signed by both countries on July 13, 2000. However, Congress has not yet approved the agreement. Therefore, the President must grant a waiver for Vietnam to receive NTR treatment.

President Bush requested this extension of waiver authority from Congress, which would allow for NTR to continue with Vietnam, despite Vietnam's emigration and other restrictions on its people (which would otherwise disqualify a nonmarket economy nation from being granted NTR). To stop this waiver extension, Congress would have to pass a resolution of disapproval within 60 days after July 2 (the annual expiration date of NTR); otherwise, the President's extension request would automatically take effect.

For more detailed background and procedural information, visit this website:

http://www.house.gov/ways_means/fullcomm/107cong/hjres101/hjres101explanation.htm

Last year, on July 26, 2001, the House rejected (by a vote of 91-324-1) a resolution of disapproval (H.J.Res. 55) that would have prevented an extension of NTR for Vietnam. To view last year's roll-call vote, visit this website:

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2001&rollnumber=275>

Cost to Taxpayers: The resolution authorizes no expenditure.

Does the Bill Create New Federal Programs or Rules?: No, it would disapprove President Bush's request to extend NTR for Vietnam for another year.

Constitutional Authority: Though no committee report is available for H.J.Res. 101, last year the House Committee on Ways & Means, in Committee Report 107-154, found constitutional authority for the waiver-disapproval resolution in Article I, Section 8, Clause 1 ("The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises...").

Staff Contact: Paul Teller, paul.teller@mail.house.gov, (202) 226-9718

H.R. 4946 — Improving Access to Long-Term Care Act of 2002 (Hayworth)

Order of Business: The bill is scheduled to be considered on Tuesday, July 23rd, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4946 creates and extends certain tax incentives for long-term health care. The provisions of the bill are as follows:

- Creates an above-the-line deduction (deducted before calculating adjusted gross income) for a percentage of a qualified long-term care insurance premium. For 2003-2005, the percentage is 25 percent, with a phase-in to 50 percent by 2012. The deduction is phased out for taxpayers with modified adjusted gross income between \$20,000 and \$40,000.
- Creates an additional personal exemption for each qualified family member with long-term care needs ("qualified family member" is defined as the spouse or dependent of the taxpayer who has long-term care needs and resided with the taxpayer for more than half the year). The exemption is \$500 for 2003-2004, phasing-in to \$3,000 by 2012.
- Expands the Orphan Drug Credit, which allows taxpayers to claim a 50 percent credit for expenses related to human clinical testing of drugs for rare diseases and conditions, to expenses incurred before the drug was designated an "orphan drug" by the Food and Drug Administration but after an application has been filed for such a designation.
- Adds any vaccine against hepatitis A to those vaccines that are subject to a 75 cents per dose excise tax.
- Requires the trustees of the United Mine Workers of America Combined Benefit Fund (established to provide health benefits to coal industry workers) to decrease premiums for each year in which a subsidy payment is provided in the Medicare Modernization and Prescription Drug Act of 2002. Applies only after the enactment of the Medicare

Modernization and Prescription Drug Act of 2002 (passed by the House on June 28, 2002).

- Extends eligibility for medical savings accounts (MSA) to individuals who have a Medicare+Choice MSA by treating Medicare+Choice MSA policies as high deductible plans and allowing a Medicare-eligible individual to make a maximum deductible contribution to an MSA of 100 percent of the deductible under the Medicare+Choice MSA policy. Also allows employers or former employers of Medicare-eligible individuals to make contributions to a MSA.

Cost to Taxpayers: The Joint Committee on Taxation estimates the bill will save taxpayers \$1.5 billion over 5 years. CBO estimates savings to taxpayers of \$455 million over 5 years, with an increase in direct spending of \$34 million (a result of Medicaid and other federal program purchases of vaccines).

Does the Bill Create New Federal Programs or Rules?: The bill creates and extends tax incentives for long-term health care.

Constitutional Authority: The Ways and Means Committee, in House Report 107-572, cites Article I, Section 8 (power to lay and collect taxes) and the 16th Amendment.

Staff Contact: Lisa Bos, lisa.bos@mail.house.gov, (202) 226-1630

H.R. 3479—National Aviation Capacity Expansion Act (*Lipinski*)

Order of Business: The bill is scheduled to be considered on Tuesday, July 23rd, under a motion to suspend the rules and pass the bill. The bill **failed** under suspension of the rules last week (247-143, two-thirds required for passage). To view the roll-call, visit this website: <http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=298>

Background: According to the bill, O'Hare International Airport handles 72.1 million passengers annually, with this number expected to increase by 18% this decade. Presently, O'Hare is the third-most delayed airport in the country.

On December 5, 2001, the Governor of Illinois and the Mayor of Chicago reached an agreement to allow the City to go forward with a proposed capacity enhancement project for O'Hare which involves redesign of the airport's runway configuration. State law states that such projects at O'Hare (which is owned and operated by the city of Chicago) require State approval.

The City, with approval of the State, applied for and received a master-planning grant from the Federal Aviation Administration (FAA) for the capacity enhancement project. However, the agreement between the City and the State is not binding on future governors of Illinois. According to the bill, future governors of Illinois could stop the project by refusing to issue a certificate required for such project under the Illinois Aeronautics Act, by refusing to submit

airport improvement grant requests for the project, or by improperly administering the State implementation plan process under the Clean Air Act (42 U.S.C. 7401 et seq.) to prevent construction and operation of the project.

The City of Chicago is unwilling to go forward with the project without assurance that future governors of Illinois will not be able to stop the project.

As part of the agreement between the City and the State, the City must continue to operate Merrill C. Meigs Field, failure of which would trigger a withholding of federal airport improvement program funds from the City for O'Hare.

Bill Summary: H.R. 3479 would aim to accelerate the expansion of aviation capacity in the Chicago area.

Specifically, the bill would prohibit the State of Illinois (if the FAA makes, or at any time after December 5, 2001 has made, a grant to the City of Chicago with the approval of the State of Illinois for planning or construction of runway improvements at O'Hare) **from acting under Illinois state law** to prevent:

- further FAA consideration of an O'Hare airport layout plan directly related to the agreement reached by the State and the City on December 5, 2001;
- the construction of FAA-approved projects in the O'Hare airport layout plan; or
- Chicago from applying for federal airport improvement program funding for FAA-approved projects shown on such O'Hare airport layout plan

Further, the bill would authorize the City of Chicago (*without* the approval of the State of Illinois) to directly apply for, accept, receive, and disburse federal airport improvement program funds for planning and construction of the O'Hare expansion plan finalized on December 5, 2001 (and subject to FAA approval).

The O'Hare redesign would have to allow public roadway access through the existing western boundary of O'Hare to passenger terminals and parking facilities located inside the boundary of the airport. Additionally, the redesign could not be approved unless certain steps are taken to mitigate noise from the airport for surrounding communities.

The bill would authorize \$37 million for fiscal year 2004 and \$47 million for fiscal year 2005 for the FAA's Office of Environment and Energy to carry out noise mitigation programming and quiet aircraft technology research and development.

H.R. 3479 would require the State of Illinois to prepare an implementation plan under the Clean Air Act for the O'Hare redesign and would prohibit the State from "deviat[ing] from its customary practices under the Clean Air Act for the purpose of interfering with the construction of a runway pursuant to the redesign plan." FAA approval of the redesign plan would be subject to the mitigation of emissions regulated under the Clean Air Act implementation plan.

Until January 1, 2006, the FAA would be authorized to withhold all federal airport grant funds for O'Hare (other than grants involving national security and safety) if Chicago does not operate Merrill C. Meigs Field as a public airport (unless such airport is closed by the FAA for reasons beyond the City's control). After January 1, 2006, the City could close Meigs Field.

Net losses resulting from operating Meigs Field would be expected to be paid by the two air carriers at O'Hare that paid the highest amount of airport fees and charges at O'Hare for the preceding calendar year. The City of Chicago could use airport revenues generated at O'Hare to fund the operation of Meigs Field.

If the O'Hare runway redesign plan has not received all federal, state, and local permits and approvals necessary to begin construction by December 31, 2004, the FAA would be required to submit a status report to Congress explaining any delays.

State and Local Positions: Illinois Governor George Ryan testified before the Aviation Subcommittee on March 6, 2002, that although he has been philosophically opposed to the type of congressional superceding of state authority contained in this legislation, he supports H.R. 3479 because it applies only and specifically to the O'Hare redesign plan and does not bind future governors from action on other airport expansion plans.

Chicago Mayor Richard Daley testified at that same hearing in strong support of H.R. 3479.

Cost to Taxpayers: CBO confirms that H.R. 3479 would authorize \$37 million in FY2004 and \$47 million in FY2005 (for a total of \$84 million over the FY2003-2007 period).

Does the Bill Create New Federal Programs or Rules?: The bill would prohibit the State of Illinois from taking any actions to prevent the implementation of the O'Hare redesign plan and would authorize the City of Chicago to directly apply for, accept, receive, and disburse federal airport improvement funds without the approval of the State of Illinois.

Constitutional Authority: The Transportation Committee, in House Report #107-568, cites constitutional authority in Article I, Section 8, but fails to cite a specific power.

Staff Contact: Paul Teller, paul.teller@mail.house.gov, (202) 226-9718